

California Regional Water Quality Control Board
Santa Ana Region

Minutes of July 14, 2006
Santa Ana City Council Chambers
22 Civic Center Plaza
Santa Ana

1. Chair Beswick called the meeting to order at 9:15 A.M.

Board Members Present

Board Members Absent

Carole Beswick, Chair
John Withers, Vice-Chair
Seymour Van Gundy
Mary Cramer
Deborah Neev
William Ruh

Staff Members Present

Jorge León, Regional Board Legal Counsel
Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Joanne E. Schneider, Environmental Program Manager
Michael J. Adackapara, Supervising Water Resource Control Engineer
Jun Martirez, Chief of Permitting
Susan Beeson, Sanitary Engineering Associate
Jane Qiu, Water Resources Control Engineer
Kevin Heinemann, Information Systems Analyst
Catherine Ehrenfeld, Administrative Officer

State Board Representative

Tam Doduc, Chair, State Water Resources Control Board, outlined upcoming events at SWRCB.

Once-through Cooling Regulations for Coastal Power Plants: On July 31 in Sacramento, SWRCB Division of Water Quality will hold a public scoping meeting to seek input on the scope and content of environmental information that should be included in the draft environmental document that will be prepared for the proposed Statewide Policy for Once-through Cooling [CWA Section 316 (b)] Regulations for power plants that use seawater for cooling.

Special Protections and Ocean Monitoring for Areas of Special Biological Significance (ASBS): SWRCB staff will hold a public meeting in Santa Rosa on August 1 to seek input on the scope and content of the environmental information which should be included in the draft mitigated negative declaration that will be prepared for the proposed ASBS Special Protections to address storm water and non-point source discharges into these protected coastal zones. This is the first of three meetings scheduled for this project. The second is scheduled for August 8 in Los Angeles and the third is scheduled for August 15 in Monterey.

Public Attendance

David Asti, Southern California Edison
David McAlister, Tetra Tech

Joe Geever, Surfrider Foundation
Blake Anderson, Blake Anderson Consulting
Adam Kavic, UA 250
Richard Wood, Local 652
Mickey Totten, Local #12
Jose L. Tirado, Local 652
Ken Mayhone, Local 12
Tim Dunlap
Robin Cook
Frank Dryden
Joyce Riddell, Huntington Beach City Council
Jerry A. King, MWH Global, Inc.
Terry Martin, UA 250
Reed L. Royalty, Orange County Taxpayers Association
Mark Bulot, Chairman SAWPA
Dr. Scott Jenkins, Scripps
Andy Kingman, Poseidon Resources
Eric Pendergraft, AES Huntington Beach
Glen Nolte, UA Pipe Trades
Alfred Martinez, Cement Masons Local 500
Rich Kolander
David Padilla
Jim Adams, Los Angeles/Orange Counties Building & Construction Trades Council
Todd Priest, Orange County Business Council
Noble Waite
Cathy Green, Huntington Beach City Council
Gary Brown, Orange County Coastkeeper
Dave Mayor, Poseidon Resources
Nickolay Votchkov, Poseidon Resources
Dr. Jeff Graham, Poseidon

Public Forum

There were no speakers.

Approval of Minutes

Action: It was moved by Member Withers, seconded by Member Ruh and unanimously approved, that the Minutes of the May 8, 2006 Special Board Meeting and the Minutes of the May 19, 2006 regular Board Meeting be approved as presented.

Consideration of Consent Calendar Items

It was noted that item No. 3 and 15 had been removed, and item No. 14 had errata.

- *7. **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Joseph & Shirley Polack.**
- *8. **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Gerard P. Diaz.**
- *9. **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Tim and Cheryl Aday.**
- *10. **Appeal of Staff's Denial from the 30 Percent Slope Requirement for the Use of On-site Subsurface Disposal System – Larry Bischof.**

- *11. **Regional Board Approval of Public Health Hazard Declarations and Septic System Moratoria by the Riverside County Board of Supervisors and the City of Perris for the Area known as Enchanted Heights. Order No. R8-2006-0050.**
- *12. **Amendment of Waste Discharge Requirements for Badlands Sanitary Landfill, Riverside County Order No. R8-2006-0053**
- *14. **Lake Elsinore and Canyon Lake TMDL Task Force Agreement Order No. R8-2006-0057.**

This item had errata

Action: It was moved by Member Ruh, seconded by member Van Gundy, and unanimously approved that the Board adopt Orders No. R8-2006-0050, R8-2006-0053, and R8-2006-0057 with errata, approve the exemptions from minimum lot size requirements requested by Joseph & Shirley Polack, Gerard P. Diaz, Tim & Cheryl Aday and an exemption from the 30 percent slope requirement for the use of on-site subsurface disposal system requested by Larry Bischof.

- 17. **Public Workshop on Waste Discharge Requirements for AES Southland, L.L.C., Huntington Beach Generating Station, Huntington Beach, NPDES No. CA001163. (Information on this item is contained in a verbatim transcript)**

Environmental Program Manager Joanne Schneider presented this item. She stated that the purpose of the workshop concerning the draft renewed waste discharge requirements/NPDES permit for the Huntington Beach Generating Station (HBGS) was to solicit comments from the Board and the public. She emphasized that no Regional Board action would be taken and that consideration of adoption of the waste discharge requirements was tentatively scheduled for a public hearing during the Board's meeting on August 25, 2006.

Ms. Schneider described the nature of the HBGS and its significant, relevant operational characteristics. These include the intake of up to 507 MGD of seawater for once through cooling, and the discharge of cooling water and minor amounts of industrial waste via an ocean outfall. Ms. Schneider then reviewed the relevant law, regulation and policy that governs or may govern the operation of the facility, including waste discharges. She also described the other agencies involved directly or indirectly in permitting and/or other oversight of the facility, including: US EPA; U.S. Fish and Wildlife Service; National Marine Fisheries Service; California Department of Fish and Game; California Energy Commission; California Coastal Commission; State Lands Commission; and, California Ocean Protection Council. Ms. Schneider described recent resolutions by the State Lands Commission and the Ocean Protection Council regarding once through cooling power plants such as the HBGS. She discussed the conditions imposed by the California Energy Commission in providing an emergency certification for the HBGS Retool Project (the replacement and restart of Units 3 and 4 of the facility). These conditions included a requirement to conduct a facility-specific impingement and entrainment study. Ms. Schneider briefly reviewed findings of Energy Commission staff based on the results of that study, which was conducted in 2003-2004. These include the finding, supported by staff of the National Marine Fisheries Service, California Department of Fish and Game and the California Coastal Commission, that the impacts of HBGS entrainment/impingement are significant and must be mitigated. Ms. Schneider indicated that AES disagrees with this assessment of significance and the extent to which mitigation is required, and she noted that this difference of opinion would have to be resolved with the

Energy Commission. She indicated that the Energy Commission (and other agency) staff conclusions nevertheless informed Board staff's development of the draft renewed waste discharge requirements.

Ms. Schneider next reviewed the regulatory basis for the draft waste discharge requirements, focusing in particular on the Clean Water Act Section 316(b) Phase II regulations promulgated by the US EPA and on the State Water Board's draft policy on implementing those regulations. She explained that the 316(b) regulations focus on the environmental effects caused by cooling water intake structures, rather than discharge impacts, and that the NPDES permit for HBGS must implement those regulations. She described the impingement and entrainment performance standards established in the US EPA regulations and indicated that the State Water Board's draft policy contemplates more stringent performance standards. She stated that the draft waste discharge requirements propose to implement the more stringent State Water Board draft standards.

Ms. Schneider described the five compliance alternatives identified in the US EPA regulations and the process that once through cooling plant operators must use to assess and achieve compliance. Consistent with these regulations, the draft waste discharge requirements establish a compliance schedule of no later than January 7, 2008. However, she noted that this date is subject to change based on pending actions by others. In particular, the use of restoration as a compliance option is under litigation. Ms. Schneider indicated that restoration is the AES preferred compliance option, so that if the court denies its use, then technology solutions will be become necessary and are likely to require additional time to implement.

Ms. Schneider indicated that the draft waste discharge requirements include a reopener provision to allow the Board to consider the inclusion of requirements necessary to assure compliance with the 316(b) regulations. Mr. Thibeault asked whether a reopener provision was also included to enable the Regional Board to respond to changes in the State Water Board's draft 316(b) policy. Ms. Schneider indicated that she would confirm that such a reopener provision was included and pointed out that AES could request reopening of the permit at any time.

Speakers on the item:

Eric Pendergraft, the General Manager of HBGS
Joe Geever, the Southern California Regional Manager for
Garry Brown, the Director of the Orange County Coastkeeper

16. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Timothy and Dorothy Dunlap, 11585 Ponderosa Drive, Fontana, San Bernardino County – APN 0236-261-01.

Jun Martinez, Chief of the Permitting Section, presented this item. He stated that, in 1989, the Regional Board adopted a resolution requiring a minimum lot size of one half acre for every dwelling unit that proposes to use a septic tank subsurface disposal system for wastewater disposal. He also stated that the Regional Board exempted existing dwellings and lots, which were approved before September 7, 1989, including additions to existing structures if existing system could accommodate the additional flow. He discussed that the addition of new freestanding structures are not exempted from the minimum lot size requirements (MLSRs). He described the offset program, which was one of the exemption criterion that was included in the MLSRs to allow development that do not meet the MLSRs to proceed. The offset dealt with allowing the project to proceed if the proponent connects to the sewer an existing dwelling unit for which sewer is already available and which is also within the same groundwater subbasin that the project is

located at. Mr. Martinez emphasized that the intent of the offset program to offset wastewater discharges and not lot size acreage.

Mr. Martinez described Mr. Dunlap's proposal to add a second dwelling unit on his 0.78-acre property where a family member would live. The proposed dwelling unit consists of one bedroom, one bathroom, a living room and a kitchen. The new dwelling unit would be served by a new septic system. To meet the minimum lot size requirement, Mr. Dunlap also proposed to use the street easement in front of his property and the bridal pathway easement at the rear of the property, including the area from inside of the property boundary of Mr. Dunlap's neighbor at the back of his property.

Mr. Martinez stated that Regional Board staff denied Mr. Dunlap's proposal because the lot size did not meet the MLSRs. Furthermore, the proposal improperly relies on the use of property that is already sewered and would not in any case be available for septic system use or for use as an offset.

Mr. Gerard Thibeault, Executive Officer, also emphasized to the Board that existing dwelling units that are on sewers are already considered in the study that was conducted to develop the rationale for the minimum lot size requirement for the use of septic system.

Mr. Tim Dunlap also spoke and requested that the Board grant him approval for his project.

Action: It was moved by Member Neev, seconded by Member Cramer, that the Board uphold staff's recommendation to deny Mr. Dunlap's request for an exemption from the Minimum Lot Size Requirement.

18. **Public Workshop on Waste Discharge Requirements for Poseidon Resources (Surfside) L.L.C., Seawater Desalination Facility, Huntington Beach, NPDES No. CA 80000403.** (Information on this item is contained in a verbatim transcript.)

Environmental Program Manager Joanne Schneider presented this item. She stated that the purpose of the workshop was to solicit input from the Board and the public on the proposed waste discharge requirements/NPDES permit, and that consideration of adoption of the requirements was tentatively scheduled for a public hearing at the Regional Board's August 25, 2006 meeting. She noted that Board staff had received a number of comment letters at the workshop and that a quick perusal of their contents indicated consistent support for the desalination facility.

Ms. Schneider gave a brief overview of the proposed desalination facility and the waste discharges addressed by the draft waste discharge requirements/NPDES permit. She indicated that about 100 MGD of source water would be derived from the AES Huntington Beach Generating Station (HBGS) cooling water discharge, and that about 50 MGD of potable water would be produced by the Poseidon project. She described the waste streams that would be generated, including about 50 MGD of brine waste with salinity twice that of seawater. Ms. Schneider explained that the discharge of wastes from the desalination facility would be to the AES HBGS ocean discharge pipeline, where it would mix with the HBGS cooling water discharge prior to discharge to the ocean. Ms. Schneider then reviewed the regulatory basis for the proposed waste discharge requirements, including the California Ocean Plan and the Regional Board's Basin Plan. She indicated that the 316(b) regulations were not applicable. She briefly discussed the potential effects of discharges from the facility. These include salinity and toxicity effects (related to both salinity and toxic substances), and effects on the fate and transport of the HBGS discharge. She reported that relevant scientific investigations indicate that no significant adverse environmental effects would result from the discharge, and that the Poseidon discharge would not adversely affect the HBGS discharge. Indeed, relevant evidence indicates that the Poseidon discharge would result in a decreased thermal load

to the ocean, since a part of the HBGS discharge would be diverted to potable water production, and the blending of the Poseidon/HBGS discharges would result in accelerated dissipation of salinity and thermal plumes in the receiving waters.

Ms. Schneider indicated that, if for some reason, the HBGS source water was not available, Poseidon would need to identify an alternative water source. In this situation, the waste discharge requirements for the desalination facility would need to be revisited. Ms. Schneider also confirmed that applicable CEQA requirements would need to be satisfied.

Other speakers on this item:

Cathy Green, Councilwoman, City of Huntington Beach
Richard Wood, Laborers Union #652
Adam Kavic, DC-16
Terry Martin, Pipefitters Local #250
Mickey Totten
Noble Waite
Todd Priest, Orange County Business Council
Jim Adams, Los Angeles/Orange Counties Building & Construction Trades Council
Joyce Riddell, President, Huntington Beach Chamber of Commerce
David Padilla, President, Hispanic 100
Andy Kingman, Poseidon Resources
Rich Kolander
Glen Nolte, U. A of Pipe Trades
Reed Royalty, Orange County Taxpayers Association
Alfred Martinez, Cement Masons, Local 500
Dave Mayer

19. **Prioritization of Supplemental Environmental Projects (SEPs).**

Gerard Thibeault, Executive Officer, briefed the Board on staff's highest priority SEPs. The Board's two highest priorities are Perchlorate in North Rialto, and the Quail Valley projects. When staff assesses civil liability complaints, a discharger has the opportunity to participate in a SEP, and if there is a nexus between the violation and these two priorities, then participation in one of those two SEPs will be funded. If there is no nexus, then other SEPs will be considered.

20. **Status Report on the General Waste Discharge Requirements for the Injection/Percolation of Imported Water.**

Gerard Thibeault, Executive Officer, updated the Board on the progress of the collaborative process vs. a regulatory approach. John Rossi, General Manager of Western Municipal Water District, Daniel Cozad, General Manager of SAWPA and Mark Norton of SAWPA staff, have taken a strong leadership role in moving this topic in a positive direction.

Speakers on the item:

Mark Bulot, Chairman of SAWPA

21. **Status Report on Rialto-Colton-Fontana Perchlorate Investigation**

Kurt Berchtold, Assistant Executive Officer, summarized recent events concerning the Rialto, Colton, Fontana, perchlorate investigation. A draft letter for the Boards review and signature, addressed to the Center for Community Action and Environmental Justice was completed and will be transmitted. This organization withdrew their participation in the

Community Advisory Committee. The letter invites them to continue their dialog with staff.

There have been various field investigations on the 160-acre parcel site. Goodrich has completed 3 of 5 monitoring wells. The remaining two wells will be completed by next week. Goodrich will conduct sampling from all 5 wells. These wells are deep, multi-port wells that allow vertical sampling at multiple levels in each well. Goodrich is on track to complete their work on schedule under the terms of the agreement with the Board. Goodrich continues to monitor the four on-site wells that they installed under an order by USEPA. Sampling results indicated a dramatic increase in perchlorate levels. Goodrich has increased the frequency of sampling of those wells at the request of USEPA.

Pyro Spectaculars has installed 3 monitoring wells on-site. They will begin collecting samples within the next few weeks.

Emhart has been doing some soil investigations. They also intend to install two groundwater-monitoring wells in August.

The terms of the agreement with Goodrich gives the Board the option to require additional monitoring wells beyond the 5 minimum, which will extend the term of the agreement. Even though we don't have data from the 5 wells yet, staff's concern based on the very high levels of perchlorate that have been detected in the groundwater on site, is that there clearly is an significant active source on the site that would seem to need some remediation in the near future. Staff intends to propose a special board meeting, probably in mid-November, to consider Clean up and abatement orders for Goodrich and potentially another party.

In the matter of Emhart, the Board had scheduled a hearing on the Emhart Cleanup and Abatement Order that was to be held on Monday and Tuesday, the 17th and 18th of July. That hearing has been cancelled. Staff submitted a request to the State Board that they consider holding a hearing on the merits of the clean up and abatement order. They declined to conduct a hearing. Staff has submitted a request that the State Board reconsider, based on new information. Staff also suggested an alternative approach to the State Board; that is, holding a hearing with an independent Hearing Officer that the Board would appoint, if State Board declines staffs request.

A couple of public records act requests were received from Musick, Peeler and Garrett, representing West Valley Water District and Fontana Water Company. These requests ask for copies of Form 700, Conflicts of Interest forms for Board Chair Carole Beswick, Member Bill Ruh, former Member Fred Ameri and certain staff members. These requests also ask for copies of emails and notes from present and former Board Members and specified members of staff, going back to 1995. Staff is in the process of responding to these requests.

22. **Executive Officer's Report**

There was no report

23. **Regional Board Member Communications**

Chair Beswick notified the Board of a scheduled hearing for Quail Valley. Monday August 14, 6 P.M. at the same Middle School as the last hearing.

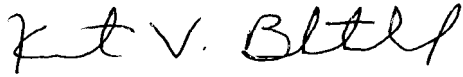
Closed Session

There was no closed session.

Adjournment

The meeting was adjourned at 12:55 p.m. to the next regular Board meeting of August 25, 2006, in the Orange County Sanitation District, 10844 Ellis Ave., Fountain Valley

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Gerard J. Thibault".

for **GERARD J. THIBEAULT**
Executive Officer